SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and between the State of Missouri, at the relation of Attorney General Eric S. Schmitt ("State"), and the City of Diamond, Missouri ("City of Diamond") (each a "Party" and collectively the "Parties").

WHEREAS, the Attorney General has the authority to enforce Missouri law on behalf of the State; and

WHEREAS, on April 4, 2019, the State filed a Petition ("Petition") for Declaratory and Injunctive Relief in the Circuit Court of Newton County, Missouri, Civil Division, Case No. 19NW-CV00752 ("Lawsuit"); and

WHEREAS, the Petition alleged that the City of Diamond and its chief of police were directing municipal police officers to write additional traffic tickets for the explicit purpose of generating additional municipal revenue;

WHEREAS, the Petition alleged that the City of Diamond, through its chief of police, wrote on a whiteboard that the department was "way behind on Highway Safety Enforcement" (sic) and "We R 5000.00 B hind – Issue some Tickets RFN" (sic); and

WHEREAS, the Petition alleged that the City of Diamond, through its chief of police, encouraged ticket quotas through his white board messages, additional verbal communications to police officers, and the practice of communicating ticket counts of individual officers to the mayor and board of aldermen; and

WHEREAS, the Petition alleged violation of Section 304.125, RSMo, which provides in relevant part: "No political subdivision or law enforcement agency shall have a policy requiring or encouraging an employee to issue a certain number of citations for traffic violations on a daily, weekly, monthly, quarterly, yearly or other quota basis."; and

WHEREAS, the Petition also alleged violation of Section 575.320, RSMo, which provides in relevant part: "A public servant, in his or her public capacity or under color of his or her office or employment, commits the offense of misconduct in administration of justice if he or she . . . (6) Orders or suggests to an employee of a political subdivision that such employee shall issue a certain number of traffic citations on a daily, weekly, monthly, quarterly, yearly or other quota basis or that such employee shall increase the number of traffic citations that he or she is currently issuing."; and

WHEREAS, the City of Diamond admits that certain actions taken by its chief of police constitute having a policy requiring or encouraging employees to issue a certain number of citations for traffic violations in violation of Sections 304.125 and 575.320.1(6) RSMo.; and

WHEREAS, the State and City of Diamond desire to settle the matters raised in the Lawsuit in accordance with the terms and conditions contained herein;

- **NOW, THEREFORE**, in consideration for the mutual promises, covenants, and conditions contained herein, the sufficiency and adequacy of which are acknowledged by the Parties, the State and the City of Diamond agree as follows:
- 1. Immediate Compliance; Compliance Program to Be Established by City of Diamond. The City of Diamond shall immediately comply with Sections 304.125 and 575.320.1(6), RSMo. The city shall develop, establish, and maintain adequate internal policies, procedures, ordinances, or other operating rules designed to ensure compliance with Sections 304.125 and 575.320.1(6), RSMo. No later than July 1, 2019, the City of Diamond shall certify compliance to the State and provide a copy of any documents evidencing adequate internal policies, procedures, ordinances, or other operating rules designed to ensure compliance with Sections 304.125 and 575.320.1(6), RSMo.
- 2. Mandatory Trainings. No later than July 29, 2019, the City of Diamond shall design and operate a training program to ensure compliance with Sections 304.125 and 575.320.1(6), RSMo. The training program shall be no less than ninety (90) minutes in length. Topics to be discussed shall include: (a) the legal requirements of Sections 304.125 and 575.320.1(6), RSMo, and (b) the requirements and purpose of Senate Bill 5 in 2015, Senate Bill 572 in 2016, and Senate Bill 765 in 2016. The training shall be attended by the mayor, all members of the board of aldermen, and the chief of police. No later than August 12, 2019, the City of Diamond shall certify to the State that the program has been completed and provide a copy of any presentation or materials provided at the program.
- 3. Damages for Non-Compliance. If the City of Diamond (1) fails to comply with Sections 304.125 and 575.320.1(6) at any point within three years of the effective date of this agreement, (2) fails to develop, establish, and maintain the internal policies, procedures, regulations, or other operating rules as specified in paragraph 1, (3) fails to implement and complete the training program as specified in paragraph 2, or (4) fails to file the certifications required under paragraphs 1 and 2, then the City of Diamond shall be liable to the State for one hundred dollars (\$100) per day of non-compliance, and the State of Missouri may pursue legal action substantially similar to the Lawsuit and other just actions as appropriate.
- 4. Resolution of Claims and Voluntary Dismissal. This Agreement resolves all claims the State, acting through the Attorney General, has or may have had against the City of Diamond under Mo. Rev. Stat. Sections 304.125 and 575.320.1(6) for acts occurring prior to the date of this Agreement regarding municipal traffic quotas and misconduct in the administration of justice. Within fourteen (14) days of this Agreement, the State shall seek voluntary dismissal of the Petition and the Lawsuit.
- 5. No Limit on the Rights of the State. Except as specified in paragraph 4, this Agreement shall not be construed to limit the rights of the State to obtain penalties or declaratory or injunctive relief under Missouri law or regulations or under federal laws or regulations. Without limiting the foregoing, the Parties agree that (a) nothing in this Agreement shall prevent either Party from applying to a court for further orders or relief if violations of this Agreement occur, (b) nothing in this Agreement shall preclude the State from seeking equitable or legal

relief for violations of Missouri laws or regulations that were not alleged in the Petition, and (c) nothing in this Agreement shall preclude the State from seeking equitable or legal relief for future violations of Missouri law or regulations.

- 6. Attorneys' Fees, Costs, and Expenses. Each Party shall bear their own attorneys' fees, costs, and expenses.
 - 7. Court Costs. The Parties shall bear their own court costs.
 - 8. Effective Date. This Agreement is effective on the date signed by the last Party.
- 9. Scope of Agreement. This Agreement embodies the entire agreement and understanding of the Parties with respect to the subject matter contained herein. The Parties hereby declare and represent that no promise, inducement, or agreement not herein expressed has been made, and the Parties acknowledge that the terms and conditions of this Agreement are contractual and not a mere recital.
- 10. Modification. This Agreement may not be modified except by a writing executed by the Parties. The Parties agree to negotiate in good faith any modifications to this Agreement in response to any future relevant action by the Missouri General Assembly or a court.
- 11. Authority. The persons signing this Agreement represent that they have the authority to enter into this Agreement on behalf of the respective Parties and offices that they represent.
- 12. Preparation of Documents. This Agreement is the joint work product of the Parties and, in the event of any ambiguity herein, no inference shall be drawn against a Party by reason of document preparation.
- 13. Forum Selection. The Parties agree that any action to enforce this Agreement must be pursued in the Circuit Court of Newton County, Missouri.
- 14. Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which shall constitute an original instrument and all of which together shall constitute one and the same Agreement.
- 15. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in their respective capacities as described below.

CITY OF DIAMOND, MISSOURI:
Blenda Schmitt Signature
Brenda S. Schmitt Printed Name
Title afor
06/27/19

THE STATE OF MISSOURI:

Signature

Christopher Wray

Printed Name

Chief of Staff/Akristant Albring Goeral

Title

Tuly J. 2019